



June 11, 2008

Katharine London
Executive Director
Health Care Quality and Cost Council
2 Boylston Street, 5th Floor
Boston, MA 02116

RE: 129 CMR 3.00, Disclosure of Health Care Claims Data

Dear Ms. London:

I am writing on behalf of Blue Cross Blue Shield of Massachusetts ("BCBSMA") to provide you with our comments regarding the Health Care Quality and Cost Council's ("QCC" or "Council") proposed regulations by which interested and appropriate entities will obtain data extracts from the QCC's all-payer claims data base established by Chapter 58 of the Acts of 2006 ("Chapter 58"). We are in full support of the QCC's goal of making available state-wide information on the cost and quality of health care for Massachusetts residents using its robust dataset to provide researchers and academics with the raw data from which they may derive trends and issues. This form of cost and quality transparency – particularly with all-payer metrics behind it – is an important and potentially powerful lever for achieving the Council's overarching goals. However, release of the data must be contingent upon adequate safeguards of patient confidentiality and avoidance of unintended anti-competitive business consequences (for example, if contractual payment agreements are unintentionally released). We therefore have the following recommendations:

- 3.03 (1)(a) Data Release Review Board: as research, including academic-based research, will be a primary anticipated use of the data, we recommend inclusion of a person with demonstrated expertise in the processes associated with academic research
 - 3.03 (2)(b)(5),(8) Application Review Procedures: in order to better assist in the management of privacy data from applicants, we would recommend that specific privacy policies be identified in the list in each section (5 and 8), and add a statement that the Council has the right to audit the measures and policies
 - 3.03 (2)(c)(8) Application Review Procedures: we recommend requiring applicants to state their data destruction policies, including their vendors and contractors obligations with respect to such compliance. This language may either be included in or added after section (8). While it is true that this information may ultimately be included in the Data Use Agreement, and is detailed further on in the regulations, a better practice would be to include it here.
 - Category of Data Elements
 - Table 2 Medical Claims Data Release: we recommend changing the release category for "M066 Coinsurance Amount" from "Public Unrestricted" to "Restricted" or "Data Not For Release." Coinsurance reflects a percentage of the total payment for a service, usually 20
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percent or 25 percent of the approved amount for a service. As an unrestricted data element, it would be too easy to identify a contracted plan payment by simple mathematical extrapolation.

- Table 3 Pharmacy Claims Data Release: same issue for "PC041 Coinsurance Amount." We recommend changing the category to "Restricted data" or "Data Not for Release."
- Enforcement: If an approved applicant fails to comply with the rules, there is little in terms of penalties in the present draft other than the inability to get more data. We would recommend that the Council, upon notification of a violation of any of an applicant's terms, be required to report the incident to the Massachusetts Attorney General's Office for investigation and appropriate sanction.

We look forward to continuing to work with the Council toward achieving its multiple goals that will provide much needed information on the cost of services and improve the quality of care for all Massachusetts residents. Please do not hesitate to contact me with any questions you may have. Thank you for your thoughtful consideration of these important issues.

Sincerely,

A handwritten signature in black ink, reading "John J. Curley Jr." in a cursive style.

John J. Curley, Jr.